

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Gwendolyn Timberlake, D.D.S.
License No. D8800

**STIPULATION AND ORDER FOR
CONDITIONAL LICENSE**

The Minnesota Board of Dentistry ("Board") is authorized pursuant to Minn. Stat. ch. 150A, § 214.10, and § 214.103 to license and regulate dentists, to refer complaints against dentists to the Attorney General for investigation, and to take disciplinary action when appropriate.

The Board received a complaint(s) against Gwendolyn Timberlake, D.D.S. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaint(s) and referred the matter to the Attorney General for investigation. Following the investigation, the Committee held a conference with Licensee on October 15, 2004. The Committee and Licensee have agreed that the matter may now be resolved by this stipulation and order.

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between Licensee and the Committee as follows:

A. Jurisdiction. Licensee holds a license to practice dentistry in the State of Minnesota from the Board and is subject to the jurisdiction of the Board with respect to the matters referred to in this stipulation. Licensee states that Licensee does not hold a license to practice dentistry in any other jurisdiction and does not hold any other professional or occupational licenses.

B. Facts. This stipulation is based upon the following facts:

Background

1. On January 14, 2000, Licensee entered into an Agreement for Corrective Action ("2000 ACA") with the Committee. It was based on Licensee's failure to maintain adequate safety and sanitary conditions for a dental office and her failure to make and maintain adequate patient records. Among other things, the 2000 ACA required Licensee to submit to at least one unannounced office inspection by a Board representative to review Licensee's patient records and the safety/sanitary conditions of her office. This was conducted on January 4, 2002.

2. In the meantime, the Board received additional complaints against Licensee again alleging substandard infection control and recordkeeping. On July 26, 2002, the Committee met with Licensee to discuss the inspection report and new complaints. On September 17, 2002, Licensee entered into an Amended Agreement for Corrective Action ("2002 Amended ACA") which replaced her 2000 ACA. It was based upon inadequate infection control, recordkeeping and diagnostic technique, and lack of knowledge regarding crown and bridge retention. Licensee is currently subject to the 2002 Amended ACA.

3. At the October 15, 2004 conference, the Committee found that Licensee had failed to complete the coursework requirements of her 2002 Amended ACA. Moreover, Licensee failed to complete the coursework within one year of the effective date of the 2002 Amended ACA. Licensee did inform the Committee that she had taken some of the required course hours through home study courses this past week. However, it was determined by the Committee that Licensee failed to fulfill the course hour requirements, failed to obtain pre-approval from the Committee for any of the courses taken, and failed to take non-home study courses which were only allowed for one of the required courses.

**Unprofessional Conduct, Improper Billing, Failure to Complete Prosthodontic Treatment
or Failure to Complete Prosthodontic Treatment in a Timely Manner,
and Substandard Prosthodontics**

4. Licensee has engaged in unprofessional conduct and engaged in improper billing of patients in that she provided prosthodontic treatment which she failed to complete or failed to complete in a timely manner to patients and accepted payment for that treatment.

a. From December 2001 to May 2003, Licensee failed to complete prosthodontic treatment for patient 1. During the conference, Licensee admitted that she kept the Medical Assistance payment she had received for patient 1's upper and lower partial dentures to pay the lab fees, but did not inform Medical Assistance that she did not deliver the partial dentures to the patient.

b. From January 2003 to April 2003, Licensee failed to complete prosthodontic treatment for patient 2 in a timely manner. During the conference, Licensee stated that she did eventually deliver upper and lower partial dentures to patient 2, but admitted that the delay was unreasonable. Licensee explained that patient 2's treatment was delayed because she was "being garnished" by two dental labs, the State of Minnesota, and the Internal Revenue Service, and was financially unable to process the dentures without reimbursement from Medical Assistance.

c. From mid-2001 to December 2003, Licensee failed to complete prosthodontic treatment for patient 3. During the conference, Licensee explained that she attempted to deliver an upper complete denture and lower partial denture to patient 3; however, patient 3 rejected both dentures due to the shade of the teeth. Licensee stated that she is currently in possession of the dentures and has been unable to contact the patient. Licensee admitted that she received payment for the dentures from Medical Assistance and used the money to make a payment to the lab company whom she owed.

5. During the conference, Licensee failed to adequately articulate to the Committee the proper techniques necessary to fabricate removable prosthodontics for patients. Licensee failed to address techniques including, but not limited to, esthetics, adequate records, plane of occlusion, and vertical dimension.

Substandard Periodontal Treatment

6. Licensee failed to provide appropriate periodontal treatment to her patients in that she failed to perform sufficient periodontal probings and techniques. Licensee admitted during the conference that she does not perform a periodontal probing on all adult patients in her practice, if the patient does not accept this procedure being done. Licensee also failed to articulate to the Committee the proper dental hygiene instruments used on the patient's teeth during periodontal scaling, proper clinical procedures, and proper techniques for sharpening these instruments.

Inadequate Safety and Sanitary Conditions and Infection Control Practices

7. Licensee failed to maintain adequate safety and sanitary conditions for a dental office in that Licensee failed to comply with the current 2003 infection control guidelines of the Centers for Disease Control (CDC). During the conference, Licensee failed to articulate to the Committee proper standard precautions when using barriers on dental equipment and sterilizing impression trays.

Substandard Recordkeeping

8. Licensee failed to make or maintain adequate dental records on patients. Examples include the following:

a. For patient 1, Licensee failed to document her diagnosis for treatment, a proper treatment plan, and informed consent for prosthodontic treatment, specifically partial dentures.

b. For patient 2, Licensee failed to obtain adequate clinical examination records to properly make a diagnosis for dental treatment such as full mouth radiographs and periodontal probing measurements of patient's existing oral health status. Additionally, Licensee failed to document her diagnosis for dental treatment, a proper treatment plan, and informed consent for prosthodontic treatment, specifically partial dentures.

c. For patient 3, Licensee failed to obtain a complete medical and dental history, to record periodontal or gingival health conditions, and to document her diagnosis for dental treatment, a proper treatment plan, and informed consent for prosthodontic treatment.

C. Violations. Licensee admits that the facts and conduct specified above constitute violations of Minn. Stat. §150A.08, subd. 1(6) and Minn. R. 3100.6200 A (personal conduct which brings discredit to the profession of dentistry); Minn. Stat. §150A.08, subd. 1(6) and Minn. R. 3100.6200 D (charging a patient for services not rendered); Minn. Stat. § 150A.08, subd. 1(6) and Minn. R. 3100.6200 B (repeated performance of dental treatment which falls below accepted standards); Minn. Stat. §150A.08, subd. 1(6) and Minn. R. 3100.6200 J and 3100.6350 (failure to cooperate with the board); Minn. Stat. § 150A.08, subd. 1(10) and Minn. R. 3100.6200 K and 3100.6300 (failure to maintain adequate safety and sanitary conditions for a dental office); Minn. R. 3100.9600 (failure to make or maintain adequate dental records on each patient) and are sufficient grounds for the disciplinary action specified below.

D. Disciplinary Action. Licensee and the Committee recommend that the Board issue an order which places CONDITIONS on Licensee's license to practice dentistry in the State of Minnesota as follows:

CONDITIONS

1. Coursework. Licensee shall successfully complete the coursework described below. All coursework must be approved in advance by the Committee. None of the

course work may be home study with the exception of the course on emergencies in the dental office described below. Licensee is responsible for locating, registering for, and paying for all coursework taken pursuant to this stipulation and order. If Licensee attends an undergraduate or graduate dental school course, Licensee must provide each instructor with a copy of this stipulation and order prior to commencing a course. Licensee shall pass all courses with a grade of 70 percent or a letter grade "C" or better. Licensee's signature on this stipulation and order constitutes authorization for the course instructor(s) to provide the Committee with a copy of the final examination and answers for any course Licensee takes. Licensee's signature also authorizes the Committee to communicate with the instructor(s) before, during, and after Licensee takes the course about Licensee's needs, performance and progress. None of the coursework taken pursuant to this stipulation and order may be used by Licensee to satisfy any of the continuing dental education/professional development requirements of Minn. R. 3100.4100, subparts 1 and 2 prior to January 1, 2005, or Minn. R. 3100.5100, subpart 2 after January 1, 2005. The coursework is as follows:

- a. Recordkeeping. Within 18-months of the effective date of this order, Licensee shall successfully complete a minimum of six hours of instruction in accurate and complete recordkeeping.
- b. Infection Control. Within 18-months of the effective date of this order, Licensee shall successfully complete a minimum of six hours of instruction in infection control.
- c. Radiology. Within 18-months of the effective date of this order, Licensee shall successfully complete a minimum of six hours of instruction in radiology techniques and interpretation.

d. Fixed Prosthodontics. Within 18-months of the effective date of this order, Licensee shall successfully complete a minimum of six hours of instruction in fixed prosthodontics, emphasizing crowns and bridges and including information on retention.

e. Emergencies. Within 18-months of the effective date of this order, Licensee must successfully complete a course on emergencies in the dental office.

f. Removable Prosthodontics. Within 18-months of the effective date of this order, Licensee shall successfully complete a minimum of six hours of instruction in removable prosthodontics which includes a hands-on component.

g. Periodontics. Within 18-months of the effective date of this order, Licensee shall successfully complete a non-surgical periodontal course including diagnosis and scaling, which includes a hands-on component at the University of Minnesota or an equivalent course.

2. Written Reports and Information. Licensee shall submit or cause to be submitted to the Board the reports and/or information described below. All reports and information are subject to approval by the Committee:

a. Reports on All Coursework. Within 30 days of completing any coursework, Licensee shall submit to the Board (a) a transcript or other documentation verifying that Licensee has successfully completed the course, if the course is a graduate or undergraduate dental school course, (b) a copy of all materials used and/or distributed in the course, and (c) a written report summarizing what Licensee learned in the course and how Licensee has implemented this knowledge into Licensee's practice. Licensee's report shall be typewritten in Licensee's own words, double-spaced, at least two pages and no more than three pages in length, and shall list references used to prepare the report. The report for recordkeeping class(es)

shall address all topics addressed in the course(s) and shall include sample recordkeeping forms that Licensee has begun to use in his practice.

b. Quarterly Self-Reports. Licensee shall submit quarterly reports to the Board. The first report shall be due within three months of the date of the order, and subsequent reports shall be due on the first day of the month on a quarterly basis thereafter. Each report must be prepared by Licensee and shall address and/or provide the following: a current updated list as to the coursework completed by Licensee; a listing of coursework that has been scheduled for the future; and/or other pertinent information relating to the required coursework.

3. Office Inspections.

a. Infection Control Inspection. Licensee shall fully cooperate with an unannounced office visit by a representative of the Board conducted for the purpose of inspecting the safety and sanitary conditions present in Licensee's office. The Board's representative shall conduct the inspection during normal business hours. The Board's representative shall complete at least one unannounced office visit pursuant to this paragraph, additional visits shall be at the discretion of the Committee.

b. Recordkeeping Inspection. Licensee shall cooperate with at least one unannounced office visit during normal business hours by a representative of the Board, additional visits shall be at the discretion of the Committee. The representative shall randomly select, remove, and make copies of original patient records, including radiographs, to provide to the Committee for its review of Licensee's recordkeeping practices.

4. Other Conditions.

a. Licensee shall comply with the laws or rules of the Board of Dentistry. Licensee agrees that failure to comply with the Board's laws or rules shall be a violation of this stipulation and order.

b. Licensee shall fully and promptly cooperate with the Board's reasonable requests concerning compliance with this stipulation and order, including requests for explanations, documents, office inspections, and/or appearances at conferences. Minn. R. 3100.6350 shall be applicable to such requests.

c. In Licensee's practice of dentistry, Licensee shall comply with the most current infection control requirements of Minn. R. 3100.6300 and 6950.1000 through 6950.1080, and with Centers for Disease Control and Prevention, Public Health Service, United States Department of Health and Human Services, *Guidelines for Infection Control in Dental Health-Care Settings - 2003*, Morbidity and Mortality Weekly Report, December 19, 2003 at 1.

d. If the Board receives a complaint alleging additional misconduct or deems it necessary to evaluate Licensee's compliance with this stipulation and order, the Board's authorized representatives shall have the right to inspect Licensee's dental office(s) during normal office hours without prior notification and to select and temporarily remove original patient records for duplication. Licensee shall fully and timely cooperate with such inspections of Licensee's office and patient records.

e. In the event Licensee should leave Minnesota to reside or practice outside the state, Licensee shall notify the Board in writing of the new location within five days. Periods of residency or practice outside of Minnesota will not apply to the reduction of any period of Licensee's discipline in Minnesota unless Licensee demonstrates that practice in another state conforms completely to this stipulation and order.

5. Removal of Conditions. Licensee may petition to have the conditions removed from Licensee's license at any regularly scheduled Board meeting provided that Licensee's petition is received by the Board at least 30 days prior to the Board meeting. Licensee shall have the burden of proving that Licensee has complied with the conditions and that Licensee is qualified to practice dentistry without conditions. Licensee's compliance with the foregoing requirements shall not create a presumption that the conditions should be removed. Upon consideration of the evidence submitted by Licensee or obtained through Board investigation, the Board may remove, amend, or continue the conditions imposed by this order.

6. Fine for Violation of Order. If information or a report required by this stipulation and order is not submitted to the Board by the due date, or if Licensee otherwise violates this stipulation and order, the Committee may fine Licensee \$100 per late report or other violation. Licensee shall pay the fine and correct the violation within five days after service on Licensee of a demand for payment and correction. If Licensee fails to do so, the Committee may impose additional fines not to exceed \$500 per violation. The total of all fines may not exceed \$5,000. Licensee waives the right to seek review of the imposition of these fines under the Administrative Procedure Act, by writ of certiorari under Minn. Stat. § 480A.06, by application to the Board, or otherwise. Neither the imposition of fines nor correction of the violation will deprive the Board of the right to impose additional discipline based on the violation.

7. Additional Discipline for Violation of Order. If Licensee violates this stipulation and order, Minn. Stat. ch. 150A, or Minn. R. ch. 3100, the Board may impose additional discipline pursuant to the following procedure:

a. The Committee shall schedule a hearing before the Board. At least ten days prior to the hearing, the Committee shall mail Licensee a notice of the violation alleged by the Committee and of the time and place of the hearing. Within seven days after the notice is

mailed, Licensee shall submit a response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

b. At the hearing before the Board, the Committee and Licensee may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this stipulation and order. Licensee waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or a limitation on Licensee's practice, or suspension or revocation of Licensee's license.

8. Other Procedures for Resolution of Alleged Violations. Violation of this stipulation and order shall be considered a violation of Minn. Stat. § 150A.08, subd. 1(13). The Committee shall have the right to attempt to resolve an alleged violation of the stipulation and order through the procedures of Minn. Stat. § 214.103, subd. 6. Nothing herein shall limit (1) the Committee's right to initiate a proceeding against Licensee pursuant to Minn. Stat. ch. 14, or (2) the Committee's and the Board's right to temporarily suspend Licensee pursuant to Minn. Stat. § 150A.08, subd. 8, based on a violation of this stipulation and order or based on conduct of Licensee before or after the date of this stipulation which is not specifically referred to in paragraph B. above.

9. Attendance at Conference. Licensee attended a conference with the Committee on October 15, 2004. The following Committee members attended the conference: Freeman Rosenblum, D.D.S.; Ron King, D.D.S.; and Nadene Binge, D.H. Assistant Attorney

General Tamar Gronvall represented the Committee at the conference. Licensee is represented by Roseann Bour in this matter, who has advised Licensee regarding this stipulation and order.

10. Waiver of Licensee's Rights. For the purpose of this stipulation, Licensee waives all procedures and proceedings before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the facts contained in this stipulation and order and to dispute the adequateness of discipline in a contested proceeding pursuant to Minn. Stat. ch. 14. Licensee agrees that upon the application of the Committee without notice to or an appearance by Licensee, the Board may issue an order imposing the discipline specified herein. The Committee may participate in Board deliberations and voting concerning the stipulation. Licensee waives the right to any judicial review of the order by appeal, writ of certiorari, or otherwise.

11. Board Rejection of Stipulation and Order. In the event the Board in its discretion does not approve this stipulation or a lesser remedy than specified herein, this stipulation and order shall be null and void and shall not be used for any purpose by either party hereto. If this stipulation is not approved and a contested case proceeding is initiated pursuant to Minn. Stat. ch. 14 and section 150A.08, Licensee agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this stipulation and the record.

12. Record. This stipulation, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this stipulation. Any reports or other material related to this matter which are received after the date the Board approves the stipulation and order shall become a part of the record and may be considered by the Board in future aspects of this proceeding.

13. Data Classification. Under the Minnesota Data Practices Act, this stipulation and order is classified as public data. Minn. Stat. § 13.41, subd. 4. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13. They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. Pursuant to federal rule (45 C.F.R. part 60), the Board must report the disciplinary action contained in this stipulation and order to the National Practitioner Data Bank.

14. Entire Agreement. Licensee has read, understood, and agreed to this stipulation and is freely and voluntarily signing it. This stipulation contains the entire agreement between the parties hereto. Licensee is not relying on any other agreement or representations of any kind, verbal or otherwise.

15. Service and Effective Date. If approved by the Board, a copy of this stipulation and order shall be served personally or by first class mail on Licensee's legal counsel. The order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

LICENSEE


GWENDOLYN TIMBERLAKE, D.D.S.

Dated: 11-12-04, 2004

COMPLAINT COMMITTEE

By:


MARSHALL SHRAGG
Executive Director

Dated: 11/29/04, 2004

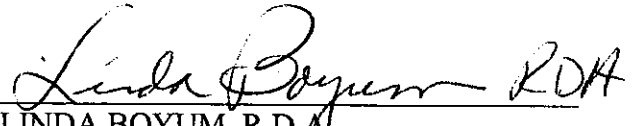
ORDER

Upon consideration of the foregoing stipulation and based upon all the files, records, and proceedings herein,

The terms of the stipulation are approved and adopted, the recommended disciplinary action set forth in the stipulation is hereby issued as an order of this Board placing CONDITIONS on Licensee's license effective this 19th day of November, 2004.

MINNESOTA BOARD
OF DENTISTRY

By:


LINDA BOYUM, R.D.A.
President